

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TONEY MACK PARKER, JR.,                     )  
  )  
      Petitioner, pro se,                    )  
  )  
      v.    )  
  )  
RICKY ANDERSON, Administrator,            )  
Pasquotank Correctional Inst.,            )  
  )  
      Respondent.                            )

1:09CV30

**ORDER**

On March 3, 2009, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed, and notice was served on the parties in this action.

Within the time limitation set forth in the statute, Pro Se Petitioner objected<sup>1</sup> to the Recommendation. (Doc. 11.)

The court has reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination, which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

IT IS HEREBY ORDERED that Respondent's motion for summary judgment (Doc. 5) be GRANTED, and that this action be DISMISSED WITH PREJUDICE as being without merit and barred by the one-year statute of limitations found in 28 U.S.C. § 2244(d)(1). Finding

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<sup>1</sup>The court notes that, in his objection, Petitioner renews his motion for court-appointed counsel. Considering that the court has found no merit in the petition and that it is time-barred, the motion is DENIED.

no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder  
United States District Judge

September 21, 2009